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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,199	11/16/1999	TAKANARI YAMAGUCHI	2185-0380P	3990

7590

03/25/2004

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EXAMINER

MULLIS, JEFFREY C

ART UNIT PAPER NUMBER

1711

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/441,199

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Jeffrey C. Mullis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 5 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ota et al. (Translation of Japanese Patent 06-57008).

See the Office action of 9-26-03 at the paragraph bridging pages 2 and 3 et seq.

Claims 2 and 10-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Translation of Ota et al., cited above.

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See the Office action of 9-26-03 at the paragraph bridging pages 3 and 4 et seq.

Claims 4 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ota et al., cited above in view of Fenton (USP 4,584,244).

See the Office action of 9-26-03 at page 5 line 1 et seq.

Claims 5 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants' arguments filed 12-03 have been fully considered but they are not deemed to be persuasive.

Applicants argue that the Examiner's interpretation of the sentence bridging pages 13 and 14 of Ota is incorrect and the "side feeder" does not melt knead material. Applicants allege that the phrase "and melt-kneads the component (C) by the side feeder," actually means that component "C" is actually melted by the extruder and not by the side feeder since the following sentence states that "so that a resin composition is manufactured by only one cycle of melt-kneading". However there is nothing contradictory to the disclosure that the resin composition is manufactured by only one cycle of melt kneading despite the fact that the side feeder melt kneads prior to feeding to the

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extruder. It does not appear to the Examiner that melt kneading in a side feeder and an extruder would amount to two cycles of melt kneading in that a material which is already melted (such as by a side feeder) could not be said to be also melted in the extruder given that already melted material cannot be melted. Since a second melting does not take place, the reference can properly be said to teach a single cycle of melt kneading. The disclosure that only one cycle of melt kneading takes place merely means that Ota does not for instance melt knead and then cool and solidify or pelletize etc his composition prior to refeeding to the extruder. With regard to applicants' argument regarding the first sentence of paragraph 20 on page 13 which indicates that the extruder enables melt kneading, there is nothing contradictory regarding this disclosure and the disclosure in the sentence bridging pages 13 and 14 as interpreted by the Examiner. There is no reason that melt kneading cannot take place in the side feeder as well as in the extruder.

With regard to the first sentence of paragraph 21 on page 13 which discloses that a side feeder may be a vertical or horizontal type, even assuming for the sake of argument that applicants are correct that a vertical type side feeder is not capable of melt kneading, the sentence bridging pages 13 and 14

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does not disclose that a vertical type side feeder need be used.

Applicants' arguments regarding the rejection under 35 U.S.C. § 103 rely upon their arguments pertaining to the rejection under 35 U.S.C. § 102. However the Examiner's position regarding the disclosure of Ota is that Ota discloses melt kneading component "C" by a side feeder and therefore meets the limitation of the claims which requires feeding an extruder with molten rubber.

**THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE

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MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (571) 272-1075. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

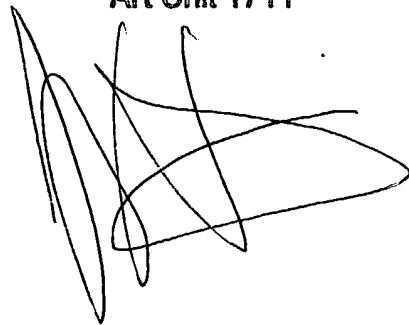
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (571) 272-1078. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.

J. Mullis:cdc

March 19, 2004

Jeffrey Mullis  
Primary Examiner  
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A handwritten signature in black ink, appearing to be 'Jeffrey Mullis', written over the printed name and title.